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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1155th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 March 1996, at 3 p.m.

Chairman: Mr. BANTON

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CLOSURE OF THE SESSION

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTIETH SESSION (agenda item 8) (CERD/SP/SR.25; A/50/505; A/RES/50/137, A/RES/50/170 and A/RES/50/171; A/AC.3/50/SR.3-8 and 18) (continued)

(a) ANNUAL REPORT SUBMITTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION UNDER ARTICLE 9, PARAGRAPH 2, OF THE CONVENTION

(b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

1. The CHAIRMAN said that it had emerged from the comments made by Mr. Valencia Rodriguez at the morning meeting that practices at the meetings of States parties to the Convention were so deeply entrenched that the Committee could do little to change them. He accordingly suggested that the matter of providing further impetus to change should be left to the next meeting of persons chairing the human rights treaty bodies.

2. Mr. GARVALOV said that, notwithstanding the remarks made by Mr. Valencia Rodriguez, he saw no reason why the States parties should not change their practices, and would therefore like the Committee to continue to press for serious consideration of its concerns by States parties.

3. The CHAIRMAN agreed with that suggestion, reminding the Committee, however, that the States parties were not scheduled to meet again until 1998.

4. Mr. CHIGOVERA, reporting on the General Assembly's consideration of the Committee's report at its fiftieth session, said that the Committee's work appeared to have received more attention in the Third Committee than in previous years. Most speakers had highlighted the important role played by the Committee in promoting racial tolerance, with particular reference to its early-warning procedures as a means of preventing and responding to urgent situations. There had been a general call for universal acceptance of the Convention and States parties had been urged to ratify the amendment to article 8 of the Convention. The gender perspective in the work of the treaty bodies had been considered in the context of the report of the meeting of persons chairing the treaty bodies and the views of the General Assembly on the matter were reflected in its resolutions 50/171 and 50/170. On that subject, he doubted whether much could be achieved by a further discussion at the Committee's current session.

5. Mr. VALENCIA RODRIGUEZ said that the Committee could derive some satisfaction from General Assembly resolution 50/137, with the emphasis it placed on the universal character of the Convention and the appeals to States parties to fulfil their obligations. It was gratifying to note that the General Assembly supported the work of the Committee, commended its early-warning and urgent procedures and action taken by the Committee in that connection as an example for other committees, and expressed the wish that, where circumstances so warranted, the Committee should continue to adopt such practices as good-offices missions.

6. Mr. SHERIFIS agreed that the discussion on the Committee and the Convention in the Third Committee had been more substantive than at previous Assembly sessions, and suggested that Committee members themselves might make a contribution by impressing on the delegations of their own countries the need to be involved in the Third Committee's debate on that item. Further suggestions for such a contribution might be made at the Committee's August session, closer to the time of the next Assembly session.

7. Mr. van BOVEN said it was particularly gratifying to note that the General Assembly urged the Committee not to confine itself to the strict terms of the Convention, but to be forward-looking and to keep abreast of the times. That was reflected in the encouragement given to the Committee to cooperate with non-governmental organizations (NGOs), to exchange information with the Special Rapporteurs (resolution 50/137, paragraph 3), and to respond to situations of massive human rights violations, including bringing those violations to the attention of the United Nations High Commissioner for Human Rights, the Secretary-General and competent United Nations human rights bodies (resolution 50/170, paragraph 23). The explicit support and encouragement given to the Committee to cooperate with and benefit from other United Nations structures was particularly important in view of questions that had been asked, for instance in the Sub-Commission on Prevention of Discrimination and Protection of Minorities, about the Committee's competence to deal with that kind of situation.

CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION (CERD/C/301) (agenda item 10)

8. Mr. O'FLAHERTY (Secretary of the Committee) noted that, in recent years, the Committee had dealt with the item by adopting a paragraph with the following wording:

> "The Committee once again finds it impossible to fulfil its functions under article 15, paragraph 2 (a) of the Convention, due to the total absence of any copies of petitions as provided therein. Furthermore, the Committee found that there was no valid information concerning legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention and, therefore, reiterates its request that it be furnished with the material expressly referred to in article 15 of the Convention so that it will be able to fulfil its functions."

9. Mr. SHERIFIS proposed the adoption of the same text, since the situation prevailing at the time of its drafting still obtained.

10. Mr. van BOVEN said that the Committee's position on the matter might perhaps be reviewed, since, of the Territories listed in paragraph 5 of document CERD/C/301, there were some, such as East Timor, Gibraltar and Western Sahara, in which the situation might warrant protection under the Convention and merit discussion.

11. Mr. O'FLAHERTY (Secretary of the Committee) explained that the only documents available were extremely brief and in no way relevant in form or content to the Convention.

12. Mr. GARVALOV agreed to Mr. Sherifis' suggestion, provided that, should any further material be forthcoming before the Committee's next session, the item would again be placed on its agenda.

13. The CHAIRMAN said that in the case of Gibraltar, for instance, the Committee might wish to request the administering Power to submit a report on the subject.

14. Mr. DIACONU pointed out that, under article 15, paragraph 2 (b) of the Convention, the competent bodies of the United Nations were required to send the Committee copies of reports concerning the Territories in question. The Committee should press for any material available on the Territories concerned. Even if the reports were outdated or needed sifting, the Committee could, after appointing a rapporteur for each Territory, make a synopsis and proceed on that basis.

15. Mr. SHERIFIS agreed to Mr. Garvalov's proposal and confirmed that none of the documents received in recent years had been of any use to the Committee. The Committee should not spend time on what, in the circumstances, would be an unproductive debate. It would be useful, however, to take up such issues when considering the periodic reports of States that were administering Powers.

16. The CHAIRMAN recalled that, two years previously, the Committee had had before it a draft decision on the subject which might meet some of Mr. Diaconu's concerns. The proposed decision had not been adopted, but it would perhaps be reconsidered at the next session if the Committee so wished. That being said, the Secretariat had estimated the financial implications of such a decision to be so exorbitant that, in the current financial circumstances, it might be inappropriate for the Committee to press for its adoption.

17. Mr. VALENCIA RODRIGUEZ noted that, in earlier days, the Committee had appointed working groups to consider petitions and reports under article 15. However, no petitions had ever been received. Moreover, despite appeals to the Secretary-General, fewer and fewer reports under article 15, paragraph 2 (b) had been forwarded to the Committee and most of those that had been submitted were not relevant to the Committee's work.

18. The CHAIRMAN suggested that the discussion on item 10 should be closed, on the understanding that it would be reopened if new and better information was forthcoming and that if Mr. Diaconu or any other member wished to review the Committee's earlier draft decision they should be free to do so at a future session.

19. Mr. DIACONU, accepting the Chairman's suggestions, further proposed that the Secretariat should distribute a list of Territories and the States responsible for them so that the Committee could request the inclusion of information on them in the relevant States parties' future periodic reports.

20. The CHAIRMAN said he took it that those suggestions were acceptable and that the item should not feature on the Committee's agenda at its next session.

21. It was so agreed.

ORGANIZATIONAL AND OTHER MATTERS

Country rapporteurs: periodic reports

22. Mr. CHIGOVERA said that 15 States parties either were or would shortly be in a position to have their reports considered at the Committee's next session, though he doubted whether the Committee would be able to accommodate all of them. The countries, and the corresponding country rapporteur, were the following: Bolivia (Mr. Lechuga Hevia); Brazil (Mr. de Gouttes); Malta (Mr. Valencia Rodriguez); Mauritius (Mr. Garvalov); Namibia (Mr. Chigovera); Republic of Korea (Mr. Diaconu); Zaire (Mr. van Boven); China (Mr. Wolfrum); Venezuela (Mr. Valencia Rodriguez); Swaziland (Mrs. Sadiq Ali); Guatemala (Mr. Yutzis); Cambodia (Mr. Yutzis); India (Mr. Rechetov); Panama (Mr. Ferrero Costa or, if he was unable to serve, Mr. Yutzis); and Pakistan (Mr. Diaconu).

23. Mr. DIACONU said that the Committee should decide which reports to consider at the next session. In his view, it should consider all reports that had been submitted by 1 May or 1 April 1996, irrespective of the order in which they had been received. Otherwise, the Committee would fall behind and would give States parties a justification for falling behind also. Thus, the report of India, which had already been received, should definitely be considered at the next session.

24. Mr. O'FLAHERTY (Secretary of the Committee) said that, of the countries named by Mr. Chigovera, only Cambodia and Pakistan had not yet submitted their reports, but they were both confident of presenting them on time.

25. Mr. RECHETOV said he failed to understand the criteria whereby it was decided which reports should be considered. India's report, for example, had been submitted at the start of the current session, yet it appeared that it was not to be examined at the next session.

26. The CHAIRMAN said that, basically, reports were considered in the order in which they were received. That order was sometimes subject to change, however, owing to other considerations, such as time needed for translation or a request by a State party that it should defer its appearance before the Committee because of other commitments. A slightly different criterion applied in the case of countries listed under the review procedure because their reports were five or more years overdue. Such States were informed that they were subject to that procedure and they sometimes requested that submission of their report should be deferred.

27. Mr. O'FLAHERTY (Secretary of the Committee) said that at the start of the session seven States parties had been listed under the review procedure. Of those, the report of Madagascar had been considered; in the case of Cambodia

and Pakistan, consideration had been deferred on the understanding that their reports would be submitted in time for the next session; the reports of India, Panama and Swaziland had not been taken up because they had been submitted during the current session; and Nepal had requested deferral of its submission, which would be ready in time for the next session.

28. Mr. de GOUTTES said that, although flexibility was naturally important, he agreed with Mr. Diaconu that the Committee ought to reach a firm decision as to which State party reports would be considered at the next session, for the sake not only of the countries themselves but also of the country rapporteurs. It had happened that a member was country rapporteur for three countries, yet had not been asked to present a single report. On other occasions, a member might have too many to present. He asked whether India's report would definitely be considered at the next session.

29. Mr. RECHETOV recalled that at the previous session letters had been sent to the new States that had formed part of the former Soviet Union, following the decision a year earlier to approach them. He inquired whether any replies had been received and, if so, to what effect. He was concerned at the fact that, to his knowledge, some of the new States had submitted reports to other human rights bodies, but none to the Committee. It was immaterial under what terms they had acceded to the Convention. Having acceded, they had certain reporting obligations, yet their authorities were ignoring the Committee.

30. Indeed, the Committee's whole approach to State party reports was chaotic. Rather than beginning a session by considering individual State party reports, it should start with a brief overview of the general situation regarding the Convention in all 146 States parties, country by country. Unless a country was involved in a war or labouring under other extreme difficulties, it had no reason not to submit a report. A defaulting State should be put on the list of countries subject to the early-warning and urgent procedures. The Committee might also consider setting up a working group to look more closely into which countries were not implementing the Convention, and in what way.

31. The CHAIRMAN, while not sharing Mr. Rechetov's view that the Committee's approach was chaotic, gave an assurance that the whole question of commitment to treaty obligations would be considered at the next session. A list of country rapporteurs for each State to be considered would be circulated.

32. Mr. YUTZIS asked whether the Secretariat could so organize the timetable that when - as often occurred - a country asked for deferral at a late stage it would be possible to fill in any gap that had thus been created with the consideration of a recently received report. For example, the report of Panama could have been considered at the current session.

33. The CHAIRMAN took it that at the next session the Committee would consider the reports of the first 12 countries on Mr. Chigovera's list, as well as those of Israel and the former Yugoslav Republic of Macedonia under the urgent procedure.

Country rapporteurs: early-warning and urgent procedures

34. Mr. CHIGOVERA said that the countries listed under the early-warning procedure, with the corresponding country rapporteurs, were the following: Israel (Mr. van Boven); former Yugoslav Republic of Macedonia (Mr. Rechetov); Croatia (Mrs. Sadiq Ali); Bosnia and Herzegovina (Mr. van Boven); Liberia (Mr. Wolfrum, and possibly Mr. Garvalov later); Federal Republic of Yugoslavia (Serbia and Montenegro) (Mr. Wolfrum); Papua New Guinea (Mr. Wolfrum); Rwanda (Mrs. Sadiq Ali); and Burundi (Mr. de Gouttes).

35. The CHAIRMAN said that he had been due to serve as country rapporteur for Nepal, which was listed under the review procedure, but that Mrs. Sadiq Ali had volunteered to replace him.

36. Mr. CHIGOVERA said, in that context, that by the next session he would have added to that list States parties whose reports were five or more years overdue.

Draft programme of work for the forty-ninth session

37. The draft programme of work was adopted.

The meeting was suspended at 4.20 p.m. and resumed at 4.35 p.m.

Liaison posts

38. The CHAIRMAN said that various members of the Committee had volunteered to provide liaison with individuals and international organizations whose work was of interest to the Committee. The list was the following:

African Commission on Human and Peoples' Rights	Mr. Chigovera
The Commonwealth	Mr. Sherifis
Council of the Baltic States	Mr. Rechetov
Council of Europe	Mr. de Gouttes
European Commission/Union	Mr. Sherifis
Inter-American Court of Human Rights	Mr. Yutzis
Inter-American Commission on Human Rights	Mr. Yutzis
International Labour Organization	Mr. van Boven
Organization for Security and Cooperation in Europe, High Commissioner for National Minorities	Mr. Wolfrum
United Nations High Commissioner for Human Rights	Mr. de Gouttes

United Nations High Commissioner for Refugees	Mr. de Gouttes
Working Groups on Indigenous Peoples	Mrs. Sadiq Ali
Working Group on Minorities	Mr. van Boven

39. He recalled that the most recent meeting of persons chairing the human rights treaty bodies had decided that after each session of the committee concerned, a brief summary of the work carried out would be circulated.

40. Mr. SHERIFIS asked for such reports to be sent to members as soon as they reached at the Secretariat so that they would have time to study them before the sessions of the Committee.

41. Mr. RECHETOV suggested that members of the Committee should be informed of the name of the relevant contact person in the respective international organization. Time should be allocated during sessions for members to report on their liaison activities.

42. The CHAIRMAN observed that members might submit a report on their liaison work in writing and suggested that he should send an official letter to the Committee's contacts informing them of the relevant liaison officer in the Committee.

43. It was so agreed.

44. Mr. de GOUTTES pointed out that he had been responsible for liaison with the European Parliament in the past and would be happy to continue contact with it. Liaison should also be established with the advisory committee of the European Union dealing with racism and xenophobia. He was prepared to undertake the task. Consideration might be given to inviting representatives of the bodies with which the Committee liaised to address it.

45. The CHAIRMAN said that he doubted whether there would be time during the Committee's sessions for that purpose.

46. Mr. RECHETOV proposed that the relevant commissions of the Commonwealth of Independent States should be added to the list, and suggested that Mr. Garvalov might serve as rapporteur.

47. The CHAIRMAN felt sure that the various liaison rapporteurs would be mindful, at all times, of the need for economy and rationalization; any period of silence, therefore, would not be taken as a sign that no work was being done. If he heard no objection, he would take it that all the proposed appointments were accepted.

48. It was so agreed.

Other matters

49. The CHAIRMAN, responding to observations by Mr. DIACONU, Mr. RECHETOV, Mr. CHIGOVERA, Mr. SHERIFIS and Mr. de GOUTTES, proposed that he should try to draw up, for consideration at the next session, proposals concerning specific

time-limits for statements by members, by country rapporteurs and by representatives of States parties when introducing periodic reports and replying to questions. He would bear in mind the decision taken at the previous session with regard to time-limits and the discretion allowed to States parties, as well as the concerns voiced about the need for discipline and rationalization, particularly with regard to due proportion between the time spent on members' observations and questions and that available for a State party's oral replies.

50. It was so agreed.

51. The CHAIRMAN, responding to an observation by Mr. RECHETOV on succession of States in respect of treaties, suggested that the agenda for the next session should include an item on consideration of a list of States deemed to have succeeded to the Convention, and the respective situations with regard to compliance with the latter and to contacts with the Committee.

52. It was so agreed.

53. Mr. van BOVEN asked for clarification of the procedure for publishing the Committee's concluding observations on States parties' periodic reports.

54. Mr. O'FLAHERTY (Secretary of the Committee) said that practice at the current session had been affected by the fact that concluding observations had been discussed at open meetings and had thus immediately passed into the public domain. The distribution procedure was that, first of all, the concluding observations were faxed to the State party's Mission. Following that, they were made public in successive stages: to begin with, they were faxed to any individuals or bodies which had made a prior formal request; then they were issued as press releases through the Department of Public Information; the latter then transmitted them to the United Nations information office in the State party concerned or nearest thereto. In addition, as from the current session they would be made available as United Nations sales publications.

55. Mrs. KLEIN-BIDMON (Representative of the Secretary-General), replying to a question by Mr. RECHETOV, said that, although nothing was certain in the current critical financial situation, sessions of the human rights treaty bodies would continue to take place as long as funds were available for the purpose.

CLOSURE OF THE SESSION

56. The CHAIRMAN, on behalf of himself and the Committee, thanked the members of the Secretariat and the Anti-Racism Information Service for their contribution to the success of the session.

57. After an exchange of courtesies in which Mr. RECHETOV, Mr. DIACONU, Mr. SHERIFIS and Mrs. ZOU Deci took part, the CHAIRMAN declared the forty-eighth session of the Committee closed.

The meeting rose at 5.40 p.m.